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RATIONALIZATION OF THE WORK OF THE COMMISSION

Letter dated 4 February 2000 from the Chairperson of the Commission on Human Rights addressed to the Permanent Representative of Malaysia to the United Nations Office at Geneva

I have the honour to refer to your letter of 2 February* concerning time limits for special rapporteurs.

As your letter points out, this matter was raised by you in private discussions with me (and subsequently brought into the public domain by your delegation's statement in the working group on 19 January as well as by your letter to Bureau members).

In our discussion, you made clear the particular perspective that the Malaysian authorities bring to this issue as well as your interpretation of the language agreed at the fifty-fifth session of the Commission.

I pointed out that I did not agree with your interpretation in one important respect. In the Chair's statement of 29 April 1999, the sentence relating to transitional measures for current office-holders states "As a transitional measure, office-holders who have served more than three years when their current mandates expire, will be limited to at most three years of further renewals in these posts". I understand these words to mean precisely what they say: that current

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* Reproduced in document E/CN.4/2000/120.

office-holders who have served more than three years when their mandates expire may serve for a maximum of three further years. If the Commission had wished to adopt more qualified or restrictive transitional arrangements, presumably this would have been specified in the text. In the absence of such qualifications, I do not see that they can be retroactively implied.

In the aftermath of our discussion, the Malaysian delegate raised the matter at the working group on 19 January and set out the Malaysian interpretation of the text. I responded to the effect that I did not believe the Malaysian interpretation would be shared by all delegations nor did I consider it was appropriate for the working group to reopen language agreed by consensus at the Commission.

That remains my position - it does not seem to me appropriate for the working group to reopen this matter nor do I believe there is any likelihood of a consensus being reached in the working group on the Malaysian interpretation of the text.

As to the point raised in paragraph 6 of your letter (that before a national of a particular State can be appointed rapporteur, the concurrence of the State in question needs to be sought, failure to do so would give that State the right not to cooperate with the Special Rapporteur concerned and reject his report) the representative of Malaysia is free of course at next week's meeting to suggest such a point for inclusion in the working group's report and to test the possibility of consensus being achievable on that point.

Since you have asked for your letter to be circulated as a document of the working group and as an official document of the fifty-sixth session of the Commission, I am asking the secretariat to accord similar treatment to my response.

(Signed) Anne ANDERSON
Chairperson of the fifty-fifth session
of the Commission on Human Rights